

**Table 57**

**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS<sup>1</sup>**  
**Fiscal Year 2006**

<b>GUIDELINE</b>	<b>Number</b>	<b>Percent</b>	<b>Affirmance Rate<sup>2</sup></b>
<b>TOTAL</b>	<b>21,178</b>	<b>100.0</b>	<b>82.6</b>
2D1.1 (Drug Trafficking)	2,229	10.5	79.6
2L1.2 (Unlawfully Entering or Remaining in the United States)	2,023	9.6	86.6
18 U.S.C. § 3553(a) Factors	1,372	6.5	94.9
2K2.1 (Firearms)	777	3.7	77.4
2B1.1 (Larceny, Embezzlement, and Theft)	520	2.5	74.6
4B1.4 (Armed Career Criminal)	300	1.4	90.3
4B1.1 (Career Offender)	284	1.3	88.7
3B1.2 (Mitigating Role)	253	1.2	98.8
3C1.1 (Obstruction of Justice)	226	1.1	76.6
3B1.1 (Aggravating Role)	202	1.0	75.2
5D1.3 (Conditions of Supervised Release)	198	0.9	87.4
2B3.1 (Robbery)	191	0.9	76.4
3E1.1 (Acceptance of Responsibility)	189	0.9	95.2
5K2.0 (Departures)	185	0.9	93.0
7B1.3 (Revocation of Probation or Supervised Release)	170	0.8	95.3
2K2.4 (Use of a Firearm in Relation to Certain Crimes)	157	0.7	76.4
5E1.1 (Restitution)	156	0.7	79.5
4A1.1 (Criminal History Category)	143	0.7	92.3
4A1.3 (Adequacy of Criminal History)	138	0.7	92.8
7B1.4 (Term of Imprisonment)	127	0.6	92.1
5K1.1 (Substantial Assistance to Authorities)	118	0.6	94.1
5C1.2 (Limitation on Applicability of Statutory Minimums)	116	0.5	90.5
6A1.3 (Resolution of Disputed Factors)	113	0.5	88.5
4A1.2 (Definitions and Instructions of Criminal History)	107	0.5	88.8
4B1.2 (Definitions for Career Offender)	102	0.5	82.4
2G2.2 (Trafficking in Material Involving Sexual Exploitation of a Minor)	94	0.4	77.7
2F1.1 (Fraud)	90	0.4	76.7
Constitutional Issues	5,595	26.4	73.7
Other Guidelines	1,755	8.3	78.2
Other Non-guideline Issues	3,248	15.3	92.4

<sup>1</sup>Based on 8,283 appeals with sentencing as at least one of the reasons for appeal. Often more than one issue was appealed; consequently, the number of issues is more than the number of defendants. The "Other" category includes all issues appealed fewer than 90 times among relevant cases.

<sup>2</sup>Affirmance Rate includes all appeals cases not reversed or directly remanded by the circuit court.

SOURCE: U.S. Sentencing Commission, 2006 Appeals Datafile, APPFY06.